THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.17159 OF 2004

Dated : 07-02-2006

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Between:

Y. Sundara Rao … Petitioner

And

1. The District Collector, Visakhapatnam,

and 4 others. …. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.17159 OF 2004

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ORDER :

The 3rd respondent – Revenue Divisional Officer, Visakhapatnam notified the vacancy of fair price shop of Seethaiahpet village of Buchaiahpet Mandal, Visakhapatnam District inviting applications from all the eligible candidates. In pursuance thereof, the petitioner has submitted his application and the 3rd respondent by proceedings dated 29-11-1999, appointed him as fair price shop dealer. However, the 5th respondent herein who was unsuccessful candidate filed an appeal before the 2nd respondent - Joint Collector contending that the writ petitioner was the owner of a rice mill, flour mill and stone crusher and he was also the President of the Milk Producers Mutually Aided Co-operative Society, Seethaiahpet village and therefore he was not eligible for appointment as the fair price shop dealer. The 2nd respondent - Joint Collector having held that the said allegations were established, by order dated 30-06-2001 allowed the Appeal and set aside the order of appointment dated 29-11-1999.

Though the petitioner preferred a Revision before the 1st respondent – District Collector, Visakhapatnam, the same was also dismissed by order dated 20-07-2002. Hence, this writ petition seeking a declaration that the order passed by the 2nd respondent as confirmed by the 1st respondent as arbitrary and illegal.

I have heard the learned Counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

The fact that the petitioner is owning a rice mill is not disputed by the petitioner, however it is only contended that it is a non-trading rice mill as on the date of notification and at present the mill is closed since 2002. Even assuming that the said plea is correct since admittedly the petitioner is continuing as President of the Milk Producers Mutually Aided Co-operative Society, Seeethaiahpet village, the petitioner is not eligible to be appointed as the fair price shop dealer. It is relevant to note that under G.O.Ms.No.53, dated 6-10-2003 certain guidelines were issued which govern the appointment of the fair price shop dealers. Under guideline No.12 (1) the individuals holding any pubic office like Sarpanch of Gram Panchayat, President of Mandal Praja Parishad, Chairman of Zilla Parishad,

Councillors/Chairman of Municipalities etc., shall not be eligible for being appointed as fair price shop dealers. Presidents of Co-operative Societies are also declared as ineligible for being authorized as dealers of the fair price shops. Hence, the petitioner who is admittedly continuing as the President of the Milk Producers Mutually Aided Co-operative Society is not eligible. An identical question has been considered by this Court in W.P.No.7478 of 2005 in which this Court having considered all the relevant provisions held that no distinction is made by guideline No.12 (1) between the Presidents of Co-operative Societies registered under A.P. Mutually Aided Co-operative Societies Act, 1995. In the above case, the petitioner therein was also an elected President of Milk Society. This Court by order dated 18-8-2005 upheld the orders passed by the respondent therein holding that the petitioner therein was disqualified for appointment as the fair price shop dealer.

In the light of the ratio laid down in the said case and since admittedly the petitioner is continuing as the President of the Milk Producers Mutually Aided Co-operative Society, I am of the opinion that the respondents 1 and 2 have rightly held that the petitioner suffered disqualification and was not eligible for appointment as fair price shop dealer. The orders under challenge do not suffer from any infirmity and therefore the interference by this Court is not warranted.

Accordingly, the Writ Petition is dismissed. No costs.

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G. ROHINI, J.

Dt. 07-02-2006.

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